



DEPARTMENT OF EMPLOYMENT AND PRODUCTIVITY

Report of a Commission of Inquiry
on a draft Order varying the field of
operation of the
Road Haulage Wages Council

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1970

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WAGES COUNCILS ACT 1959

APPOINTMENT OF A COMMISSION OF INQUIRY

WHEREAS the First Secretary of State and Secretary of State for Employment and Productivity (hereinafter referred to as "the Secretary of State"), acting in pursuance of her powers under section 4 of, and Schedule 1 to, the Wages Councils Act 1959, published on 17th December 1968, in the London and Edinburgh Gazettes, notice of her intention to make an Order varying the field of operation of the Road Haulage Wages Council, and specified therein the place where copies of a draft of the order were obtainable and the time within which any objection made with respect thereto must be sent to her:

AND WHEREAS objections in writing to the draft order were duly made by the Road Haulage Association Limited and the Transport and General Workers' Union:

AND WHEREAS the Secretary of State, having considered the said objections, has decided to refer the said draft order to a commission of inquiry:

NOW THEREFORE the Secretary of State, in pursuance of her powers under sections 6 and 9 of, and Schedule 4 to, the said Act, and after consultation with organisations representing employers and workers respectively in accordance with paragraph 3 of the said Schedule 4, hereby appoints the following persons to be members of a commission of inquiry:—

(a) Persons chosen as being independent persons:—

Professor John Crossley Wood, LL.M.

Professor Walter Hagenbuch, M.A.

Dr. Malcolm Robertson Fisher, M.A.

(b) Persons chosen to represent employers:—

Mr. Roger Noel Heaton, F.C.A.

Mr. Richard William Cox

(c) Persons chosen to represent employed persons:—

Sir Sidney William George Ford, M.B.E.

Mr. George Henry Lowthian, C.B.E.

AND the Secretary of State further appoints Prof. J. C. Wood to be Chairman of the said commission and Prof. W. Hagenbuch to act as deputy chairman in the absence of the chairman.

AND the Secretary of State in pursuance of the provisions of the said section 6 and of paragraph 5(b) of the said Schedule 1, hereby refers the said draft order to the commission for inquiry and report:

AND the Secretary of State, in pursuance of the provisions of paragraph 6 of the said Schedule 1, wishes the commission to take into account the objections to the draft order received by her from the Road Haulage Association Limited and from the Transport and General Workers' Union and to consider all questions affecting the draft order which arise on or in connection with the said objections.

Dated the 16th May 1969.

D. C. BARNES,
Permanent Under Secretary of State,
Department of Employment and Productivity.

To the RIGHT HONOURABLE BARBARA CASTLE, M.P.,

First Secretary of State and Secretary of State for Employment and Productivity.

MADAM,

1. On 16th May 1969, you directed us, in accordance with your powers under section 6 of, and paragraph 5(b) of the Schedule 1 to, the Wages Councils Act 1959, to inquire into all questions affecting a draft Order varying the field of operation of the Road Haulage Wages Council which arise on or in connection with objections received from the Road Haulage Association Ltd., and the Transport and General Workers' Union.

2. Upon receiving your request of 16th May 1969 the Commission published on 13th June 1969, a notice in the London and Edinburgh Gazettes, stating the questions which were its duty to consider and that it would consider representations made to it in writing within a period of not less than 40 days from the date of publication of the said notice. One written representation was received from the Freight Transport Association and a letter from the Transport and General Workers' Union reaffirming their original objection.

3. The Commission in giving this matter consideration sought separately oral evidence from representatives of the Road Haulage Association Ltd., Transport and General Workers' Union and Freight Transport Association. Those concerned readily co-operated with full information on the several aspects of the question concerning the draft Order.

4. We considered the effect of the qualifying clause 'wholly or mainly for hire or reward' and we were of the opinion that this qualification was too generous in its implication. It would enable transport undertakings operating mainly on their own account to ply for hire or reward in competition with other hauliers without having the obligation of complying with Road Haulage Wages Regulation Orders. It would also remove a large section of workers from the protection of statutory wage regulations. We considered that the 'fair wages' provisions of the Road Haulage Wages Act, 1938 would not necessarily provide an adequate alternative means of protection, since they depend on the initiative of the worker in complaining about wages and conditions.

5. As an alternative we considered increasing the field of operation of the Council by substituting "substantially" for "mainly" in the qualification, but this in turn presented difficulties of interpretation. No satisfactory arbitrary figure could be agreed to define "substantially".

6. Another difficulty resulting from any form of qualifying time spent on hire or reward, was to determine the position of transport undertakings whose volume of business fluctuated between the carriage of their own goods and work for hire or reward resulting in the anomalous position of undertakings being deemed in and out of the field of operation of the Road Haulage Wages Council over possibly short periods of time.

7. We noted that both the Road Haulage Association Ltd., and the Union told us that they considered the best solution to this problem was to include all hauliers engaged on carrying for hire or reward. Even though this would bring

within scope a good proportion of undertakings with their own negotiated agreements, a large proportion of these agreements use Wages Council rates as a basis. The Freight Transport Association, which looks after the interest of 'C' licence holders, naturally took a different view. They pointed out to us that there were a considerable number of satisfactory agreements and that where this was not so, the Road Haulage Wages Act, 1938 applied.

8. We debated whether it was possible to fix a small proportion of hire or reward work which would not qualify for inclusion within scope, but again realised that the problems raised would recur. In the result of these considerations, and in order to stabilise the position, we are unanimously of the opinion that any undertaking, branch or department of an undertaking engaged in the carriage of goods for hire or reward to any extent should be considered to be within the field of operation of the Road Haulage Wages Council.

9. Having agreed on the principle of hire or reward to any extent we feel it would be illogical to retain the qualification 'mainly for hire or reward' when considering the position of subsidiary transport companies engaged in the carriage of goods for parent companies, and we therefore unanimously recommend that only subsidiary companies who are engaged in the carriage of goods wholly for a parent company should be excluded from the field of operation under paragraph 2(3) of the draft Order.

10. One result of our recommendations will be that the scope of the Road Haulage Wages Council will be considerably extended. We considered the effects of this on the Wages Inspectorate and compared the position with that which would have arisen had we proposed a qualifying standard. We have no doubt that our proposals present the Inspectorate with a more straightforward task. Our proposals do mean that the representation on the Wages Council will have to be revised. One obvious candidate is the Freight Transport Association itself.

11. In order to implement our recommendations we suggest that the Schedule to the draft Order be amended as in the Appendix to this report.

12. We desire to record our appreciation of the efficiency and skill with which Mr. L. A. Calver has discharged his duties as Secretary of the Commission of Inquiry. The services he has rendered to us have proved invaluable in the preparation of our Report.

We have the honour to be, Madam,

Your obedient Servants

JOHN C. WOOD (*Chairman*).
WALTER HAGENBUCH (*Deputy Chairman*).
MALCOLM R. FISHER
RICHARD W. COX
R. N. HEATON
SIDNEY W. G. FORD
GEORGE H. LOWTHIAN

L. A. CALVER (*Secretary*).

4th December 1969.

APPENDIX

SCHEDULE

1. Subject to the provisions of the following paragraphs, this Schedule applies to workers employed on road haulage work in or from any undertaking or any branch or department of an undertaking being an undertaking, branch or department *to any extent* engaged in the carriage or haulage of goods of any description by goods vehicles on roads for hire or reward.

2. For the purposes of paragraph 1 goods shall not be deemed to be carried or hauled for hire or reward if:

- (1) they are goods sold, used or let on hire or hire-purchase in the course of a trade or business carried on by the undertaking operating the vehicle, and are being delivered or collected in the course of that trade or business; or
- (2) they are goods which have been, or are to be, subjected to a process or treatment in the course of a trade or business carried on by the undertaking operating the vehicle, and are being delivered or collected by that undertaking; or
- (3) they are goods being delivered or collected by a company in the course of or for the purposes of the trade or business of another company where the company performing the delivery or collection is one engaged in the carriage or haulage of goods by goods vehicles on roads for hire or reward *wholly* for any company, not being so engaged, associated with it; and for the purposes of this sub-paragraph "company" includes any body corporate and two companies shall be taken to be associated companies if one is a subsidiary of the other (within the meaning of section 154 of the Companies Act 1948) or both are subsidiaries of a third company.

3. A worker is employed on road haulage work—

- (1) if he is employed on all or any of the work described in (a) to (e) below, that is to say:—

- (a) driving or assisting in the driving or control of the vehicle;
- (b) collecting or loading goods to be carried in or on the vehicle;
- (c) attending to goods while so carried;
- (d) unloading or delivering goods after being so carried;
- (e) acting as attendant to the vehicle;

and who is required to travel on or to accompany the vehicle for the purpose of doing any such work; or

- (2) if his time is occupied as specified in (a) to (d) below, that is to say:—
 - (a) in doing any work incidental to his employment in work mentioned in sub-paragraph (1) hereof;
 - (b) in travelling on or accompanying a goods vehicle in connection with his employment in the work so mentioned;

(c) in holding himself under the orders or at the disposal of his employer while waiting in connection with his employment in the work so mentioned;

(d) in waiting (whether overnight or otherwise) in accordance with the instructions of his employer as a necessary consequence of his employment in any of the work so mentioned.

Provided that a person who is employed in loading goods to be carried in or on a goods vehicle, or in unloading goods after being so carried, and who is required to travel on or to accompany the vehicle partly for that purpose, shall not be regarded as being employed on road haulage work by reason only of that employment, if the main purpose for which he is required to travel on or to accompany the vehicle is that of executing work other than road haulage work after its arrival at his destination.

4. For the purposes of this Schedule—

“goods” includes goods or burden of any description;

“goods vehicle” means a motor vehicle constructed or adapted for use for the carriage or haulage of goods, or a trailer so constructed or adapted;

“road haulage work” includes road haulage work performed by a worker employed by a person carrying on the business of a goods transport clearing house, that is to say, the business of arranging for the mechanical transport of goods by road.

5. This Schedule does not apply to workers—

(1) for whom or in respect of whose work a minimum rate of wages is, for the time being, fixed by or under any other enactment; or

(2) for whom minimum remuneration has been fixed pursuant to proposals of any other Wages Council established under the Wages Councils Act, 1959;

(3) employed by, or by a subsidiary of, a Board established by Section 1 of the Transport Act, 1962, (1962 c.46) or of the Transport Holding Company, or by, or by a subsidiary of, a New Authority constituted in accordance with Schedule 1 of the Transport Act, 1968, (1968 c.73);

(4) employed by the Post Office;

(5) employed for the purposes of funerals.

